

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	MDL No. 1456
_____	)	Master Case No. 01-12257-PBS
	)	
THIS DOCUMENT RELATES TO:	)	Subcategory Case No. 06-11337-PBS
	)	
<i>United States of America ex rel. Ven-a-Care</i>	)	
<i>of the Florida Keys, Inc. v. Dey, Inc., et al.,</i>	)	
Civil Action No. 05-11084-PBS, and	)	
	)	
	)	

**PLAINTIFFS' MOTION  
TO BIFURCATE MEDICARE AND MEDICAID CLAIMS<sup>1</sup>**

Pursuant to Fed. R. Civ. P. 42(b), plaintiffs hereby move to bifurcate the trial of the plaintiffs' claims concerning the Medicare program from the claims concerning the Medicaid program. As set forth more fully in the accompanying memorandum of law, separate trials on these claims would provide a reasonable, and feasible, means of efficiently conducting trial in this cumbersome litigation, and would promote efficiency and juror comprehension of complex issues, with no unfair prejudice to defendants.

WHEREFORE plaintiffs request that this Court order that trial will proceed on the Medicare claims against the Dey defendants and then, if necessary, a subsequent trial on the Medicaid claims will be scheduled.

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<sup>1</sup> Plaintiffs have filed this Motion and Memorandum only in the Dey case. Should the Roxane case not be resolved, plaintiffs would file the identical Motion in that case as well.

Respectfully submitted,

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#### CERTIFICATION

The undersigned certifies pursuant to LR 7.1(A)(2) that counsel have conferred concerning the above motion.

/s/ George B. Henderson  
George B. Henderson, II

#### CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above document to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

April 12, 2010

/s/ James J. Fauci  
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